

Appl. No. 09/548,518
Amdt. dated 10 May 2004
Reply to Office Action of 10 Feb., 2004

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REMARKS/ARGUMENTS

This is in response to the Office Action mailed 10 February 2004, and follows a telephone conversation between the Examiner and the undersigned concerning positively claiming the panes of glass in claim 1.

Each of the matters raised in the Office Action will be responded to under the corresponding subheading below.

a. Response to Rejections under 35 USC §§102 & 103

Claims 1, 18, and 32-33 were rejected under 35 USC §102(b) as being anticipated by Briggs (U.S. 3,114,179). Claim 31 was rejected under 35 USC §103(a) over being Briggs in view of Kessler (U.S. 4,222,213).

In the arguments filed 28 November 2003, Applicant explained that the sidewall portions 14, 16 of Briggs are not for engaging the inner surfaces of the glass panes of the window, but instead press against the outer surfaces of the panes in the manner of a clamp. The Examiner maintained that the rejection was properly made, on grounds that the first and second glass panes referred to were not positively claimed in Applicant's claim.

Accordingly, Applicant has herein amended claim 1 to positively claim the first and second glass panes in an insulated window assembly. Furthermore, the claim has been amended to expressly recite that the first and second sidewall portions of the spacer frame tubing are "mounted in engagement with inner surfaces of said glass panes".

As was discussed in Applicant's previously filed arguments, the sidewall portions of Briggs do not engage the inner surfaces of the glass panes and are instead clamped against their outer surfaces. Briggs consequently fails to show the elements required by Applicant's claim 1. Applicant therefore respectfully submits that the rejection has been overcome by the present amendment.

Similarly, claim 18 has been amended to positively recite that the first and second sidewall portions are "mounted in engagement with inner surfaces of said glass panes". Applicant therefore respectfully submits that the rejection of claim 18 over Briggs has been overcome for the same reasons as discussed above.

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Claims 32 and 33 depend from claim 18 and therefore include the limitations thereof. The secondary reference (Kessler) that has been cited against claims 32 and 33 adds nothing that would teach or suggest sidewall portions that are mounted in engagement with the inner surfaces of the panes, as discussed above. Applicant therefore respectfully submits that the rejection of the claims under 35 USC §103 has also been overcome by the present amendment.

b. Allowable Subject Matter

The Office Action noted that claims 2-17, 19-30 would be allowable if rewritten in independent form.

Accordingly, claims 2 and 18, from which the remainder of the claims depend, have been rewritten in independent form, including the limitations of the base claims (there having been no intervening claims).

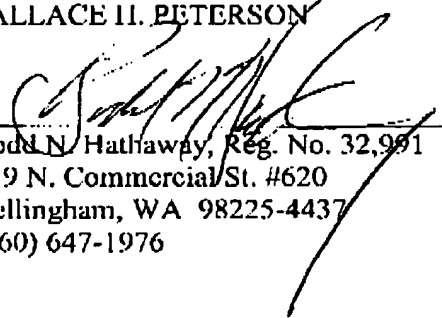
Claims 34-35 are previously allowed. It is therefore believed that claims 2-17, 19-30 and 34-35 are in condition for allowance.

c. Conclusion

Applicant respectfully requests reconsideration of the present application in view of the remarks set forth herein. It is believed that the claims are now in condition for allowance. If there is any matter that can be expedited by consultation with Applicant's attorney, such would be welcome. Applicant's attorney can normally be reached at the telephone number given below. Signed at Bellingham, County of Whatcom, State of Washington this 10th day of May 2004.

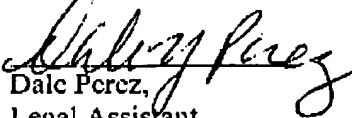
Respectfully submitted,

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**CERTIFICATE OF FACSIMILE
TRANSMISSION**

I hereby certify that this Response to Office Action is being facsimile transmitted to the Patent and Trademark Office at fax number 703/872-9306 on the date shown below.

 05/10/2004
Dale Perez, Date
Legal Assistant